

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICHARD R. ANDERSON,

Plaintiff,

vs.

WAL-MART STORES INC.,

Defendant.

No. 3:08-CV-1485-L

ECF

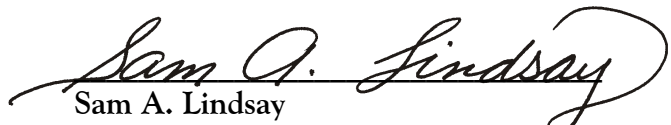
ORDER OF THE COURT ON RECOMMENDATION
REGARDING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The motion for leave to proceed *in forma pauperis* on appeal is GRANTED.
See 28 U.S.C. § 1915.
- (X) The motion for leave to proceed *in forma pauperis* on appeal is DENIED for the following reasons:
- () Plaintiff is not a pauper.
- (X) Pursuant to 28 U.S.C. § 1915(a)(3), the court certifies that the appeal is not taken in good faith because plaintiff merely appeals a transfer order entered by the magistrate judge. The appellate court lacks jurisdiction to entertain an appeal of such transfer order. See *La. Ice Cream Distribs., Inc. v. Carvel Corp.*, 821 F.2d 1031, 1033-34 (5th Cir. 1987). Consequently, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

If the Court denies the motion to proceed *in forma pauperis* on appeal, plaintiff may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). See Fed. R. App. P. 24(a)(5).

DATE: September 22, 2008


Sam A. Lindsay
United States District Judge